IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 5442 of 2002
and
CRIMINAL MISC.APPLICATION No. 5456 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DEVSING LALSING PARMAR
Versus
STATE OF GUJARAT & ANR

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Appearance :

MR AD SHAH for Applicant
MR KR RAVAL for Applicant
MR AY KOGJE APP for Respondent No.1
MR PF ADHVARYU for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 11/07/2006

ORAL JUDGMENT

1. Both the petitions have arisen between the same parties, the matters are taken together and heard accordingly.

2. Learned advocate Mr.K.R.Raval and learned senior advocate Mr.A.D.Shah for the applicant in both the petitions, learned APP Mr.A.Y.Kogje for respondent No.1 – State in both the petitions and learned advocate Mr. P.F. Adhvaryu for the respondents No.2 – Ashokbhai Naershchandra Jain in both the petitions were heard.

3. Criminal Misc. Application No.5442 of 2006 is preferred by the applicant to quash and set aside the order passed by the learned Judicial Magistrate First Class, Court No.5, Surat in pursuance of C.R.No.I-136/2001 registered before Limbayat Police Station on 30.07.2002 by which learned Judicial

Magistrate, First Class did not accept “C” Summary presented by the police.

4. While in Criminal Misc. Application No.5456 of 2002, the applicant also urged to quash and set aside the order passed by the learned Judicial Magistrate, First Class, 5th Court, Surat in pursuance of C.R.No.I-197/2001 registered before Salabatpura Police Station on 30.07.2002 whereby the learned Judicial Magistrate, First Class refused to accept “C” Summary filed by the police.

5. It appears from the record that in Criminal Misc. Application No.5456 of 2002, the applicants are three i.e. [1] Sureshbhai Ramrimpal Malpani, [2] Omprakash Brijmohan Jain and [3] Ashokbhai Indrachandra Jain. While in Criminal Misc. Application No.5442 of 2002, the applicant is only one i.e. Devising Lalsing Parmar. That is so because on 30.09.2001, it appears that one more complaint came to be filed by present respondent No.2 against the applicant for

which in a report filed by the Investigating Agency on 18.01.2001, it is mentioned that the second FIR which is registered at Salabatpura Police Station as C.R.No.I-197/2001, no further investigation was necessary. But the fact remains that there were two FIRs registered against the applicants of both the petitions vide C.R.No.I-136/2001 and vide C.R.No.I-197/2001.

6. Learned senior advocate Mr.A.D.Shah and learned advocate Mr.K.R.Raval for the applicant as well as learned advocate Mr. P.F. Adhvaryu for the respondents No.2 – original complainant in both the petitions make a statement that the parties have compromised the matter and settlement has been arrived at, in respect of both the First Information Reports. Learned advocates in both the petitions, tender a compromise purshis signed by the parties, identified by the advocates. The said purshis and applications filed by learned advocates for the applicant on 17.11.2005 in these two

proceedings are taken on record.

7. In view of above, when parties have settled their dispute amicably out of Court, further proceedings in pursuance of both the First Information Reports as mentioned aforesaid in both the proceedings would be futile. Though the allegations made in both the First Information Reports are not compoundable under Section 320 of the Criminal Procedure Code, but learned advocates for the parties submit that the inherent powers of this Court under Section 482 of the Criminal Procedure Code be exercised to meet the ends of justice and both the First Information Reports be quashed.

8. Having regard to the submissions made and having regard to the fact that the ends of justice more be secured by putting the dispute between the parties at rest instead of entering into technicalities of compoundability of the offence alleged. Whenever it is necessary, such powers can be

exercised under Section 482 of the Criminal Procedure Code. This Court is fortified by the ratio laid down by the Apex Court in the matter of **B.S.Joshi Vs. State of Haryana**, as reported in **AIR 2003 SC 1386**.

9. In this view of the matter, First Information Report filed by the respondent No.2 on 30.07.2002 registered as C.R.No.I-136/2001 before Limbayat Police Station along with all the proceedings taken in pursuance of the said First Information Report as well as First Information Report filed by the present respondent No.2 registered before Salabatpura Police Station on 30.07.2002 being C.R.No.197/2001 along with all the proceedings taken in pursuance of the said First Information Report, both are hereby quashed and set aside.

10. In terms of above, both the petitions are allowed to the above extent and finally disposed of accordingly. Interim relief, if any, granted earlier in any of the two

petitions stands vacated. Direct service is permitted. Rule is made absolute in both the petitions.

[J. R. VORA,J.]

(vijay)